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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

DAREON MACK,

Defendant and Appellant.

A153840

(Solano County
Super. Ct. No. FCR332220)

MEMORANDUM OPINION¹

While being driven to work one day by his girlfriend, defendant Dareon Mack began to argue with her, and in the course of the argument slapped her across the face, grabbed her by the neck, and began strangling her. He released his grip after his girlfriend bit him on the hand. Mack’s girlfriend stopped the car and Mack got out.

Both combatants called police and reported the other as the aggressor. After investigating, the police found Mack to be the primary aggressor.

Mack pleaded no contest to misdemeanor assault by means likely to produce great bodily injury. (Pen. Code §§ 245, subd. (a)(4) & 17, subd. (b).) His plea agreement included a general waiver of his right to appeal. (Waiver of Constitutional Rights in Support of Defendant’s Motion to Change Plea (Jan. 16, 2018) at ¶ 12 [“Even though I

¹ We resolve this case by memorandum opinion pursuant to California Standards of Judicial Administration, section 8.1. (See also *People v. Garcia* (2002) 97 Cal.App.4th 847, 853–855.)

will be convicted in this case as a result of my plea, I have the right to appeal the judgment and rulings of the court. **I give up my right of appeal.**” (Bold emphasis in original.)].)

At sentencing, the court suspended imposition of sentence, placed Mack on three years formal probation, and ordered him to serve 37 days in jail and pay various fees and fines. The court also imposed a search clause as a condition of probation, subjecting Mack to the search and seizure of his person and property without cause at any time.

Without obtaining a certificate of probable cause to appeal under Penal Code section 1237.5, Mack filed a notice of appeal. He then filed a motion in this court asking us for leave to file a late request for a certificate of appealability. We denied the motion, Mack filed a petition for review of our denial in the California Supreme Court, and the Supreme Court denied review.

Mack has now filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, requesting that we review the record independently for error. Counsel has advised Mack of his right to file a supplemental brief, which he has not done. The appeal is dismissed for lack of a certificate of probable cause to appeal. (*People v. Becerra* (2019) 32 Cal.App.5th 178, 188; *People v. Espinoza* (2018) 22 Cal.App.5th 794, 803; *People v. Panizzon* (1996) 13 Cal.4th 68, 85–86, 89.)

DISPOSITION

The appeal is dismissed.

STREETER, J.

We concur:

POLLAK, P.J.

BROWN, J.

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